

3-1-2007

Motions 2007 volume 42 number 6

University of San Diego School of Law Student Bar Association

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MOTIONS

University of San Diego School of Law

Volume 42, Issue 6

March 2007

McLennon An Intramural Thriller As National Teams Wrap Up Seasons



March 9, 2007: Students look on during the final round of the 2007 Paul A. McLennon, Sr., Moot Court Competition as a three judge panel questions finalists Andrew Haden, 2L (Podium) and James DeSilva, 2L. Photo by Jim Coit

Winner Declared in McLennon Competition

by Hasmik Badalian, *associate editor*

Related: Moot Court, Mock Trial National Teams, please see Page 6

Endowed through the generosity of USD law professor Michael Devitt and his family in honor of a longtime family friend, Paul A. McLennon, Sr., the McLennon Moot Court Competition is one of the most rigorous intramural competitions in the nation.

Established in 2001, the McLennon competition is intended not only to provide students with an opportunity to develop their brief-writing and advocacy skills, but also to showcase the talents of USD students to the legal community.

McLennon is a unique intramural because it involves a large number of competitors, spans a lengthy amount of time, has an educational component, and boasts a distinguished judge panel for the final round.

The educational component is a four-week class where top-notch practitioners and judges from the community come and speak to the competitors about the nuances of written and oral appellate advocacy.

As described by all the judges, this year's problem was particularly difficult and intertwined.

The facts and legal disposition were based on a real case (United States v. Afshari) that involved an individual's First Amendment right in making donations to organizations designated by the Secretary of State as a Foreign Terrorist Organization. While the Ninth Circuit denied rehearing the matter in the real case, the McLennon problem assumed that the Supreme Court had granted certiorari to the Ninth Circuit and would receive written briefs and hear oral arguments.

This year, the competition consisted of two preliminary rounds held over the course of a week in late February. At each round, every competitor was required. Please see McLennon, continued page 6

PILF Poker Tournament Draws a Full House

by Jerry Pfohl, *staff writer*

Maybe it was the luck of the Irish; or maybe it was just the luck of the Patrick's. Either way, there was no luck involved in making the 2007 Public Interest Law Foundation Poker tournament a complete success.

Students, alums, professors, ringers and spectators alike gathered in the second floor of Warren Hall on Friday, March 16, prepared for an exciting night of Texas Hold 'Em.

Entrants started the night with \$1,000 in chips. True, those chips only had value inside the makeshift poker hall, but the stone-faced players would need every chip they could get their hands on in order to succeed.

Please see Poker, continued page 8



Students fill the second floor of Warren Hall participating the PILF Poker Tournament. Photo by Tiffany Keith

SBA Election Results In

Plus Updates on Online Registration and
Potential Curriculum, Calendar Changes

by Angeline Anastasopoulos,
staff writer

This is my last Motions article as your SBA President. It has truly been an honor to serve the school this past year. You all did an excellent job of keeping me on my toes and making sure that I was never bored!

The new Student Bar Association officers certainly have their work cut out for them. Congratulations to the new executive board: Cole Cannon: President, John Lo: Day Vice President, Ahnie Smith: Evening Vice President, Treasurer: Marissa Lyftogt, Secretary: Lois Seong. Also, congratulations to everyone who ran for office. You all campaigned well, fought hard, and made. Please see Election, continued page 10

Curing the Human Plague of the 20th Century

by Peter Stockburger, *staff writer*

The human plague of the 20th century was not biological. It was not something tangible. Instead, the deadly affliction that spread like wildfire throughout the global community during the past century was a doctrine of customary international law, official impunity. In short, the rule is as follows: if you are acting in your official capacity, and acting in the interest of the state, you are immune from prosecution on an international scale. As a result, millions dead and tortured throughout Africa, Latin America and the Middle East, and not one official is held accountable. Stings the nostrils, doesn't it?

Each international criminal tribunal that was established and set up during the 20th century (Nuremberg. Please see Plague, continued page 9

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University of San Diego SCHOOL OF LAW

Motions
Published Since 1963
Formerly The Woolsack
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Our mission is to provide news, information, analysis and commentary to the students, faculty and staff of the University of San Diego, the University of San Diego School of Law, and the general legal community of San Diego. We believe that journalistic excellence is the soundest foundation for success. We pledge to seek and report the truth with honesty, accuracy, and fairness. These principles are cautiously guarded by each member of the Motion staff.

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Motions welcomes all letters, guest columns, complaints and commentaries. Budget permitting, we do compensate contributing writers with a modest honorarium if their piece is selected for publication. We reserve the right to edit for content, length, style and the requirements of good taste.

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Editor's Comment

Thanks for picking up a copy of the March issue of *Motions*, you won't be disappointed as this issue is packed with both substance and variety. 17 students contributed to this issue for a total of 19 articles and that doesn't even include the April Fool's issue that we produced at the same time. Moreover, this *Motions* also has a number of features that I'll point out below.

Since this is the second to last regular issue of *Motions* this year, we are beginning to accept applications for next year's staff. Open positions include editor-in-chief (you get to write this column, guide the layout, coordinate emails and editors, oh and there's a modest stipend); assistant editor; associate editor(s); business editor; and SBA representative (the responsibilities of the rest of these positions is determined year by year, but primarily the editors, well, edit articles). If you are interested, email usdlawmotions@gmail.com for more information or else with a resume and a one page summary of the position(s) you would like to apply for and why.

On to the issue: This was a great news month as denoted by our headlines on the front page and further in our special section describing the successes of our national teams in mock trial and moot court. We also have in-depth coverage of issues ranging from Darfur to HPV to the Death Penalty. Cat Tran finishes off her amazing year-long series on networking and mentoring with an article on how to be a mentor on page two. The Women's Law Caucus

features two great articles on their recent events and then, depending on whether you are reading an issue with the April Fool's issue intact, you discover that law students can be funny. To round it off, we have additional humor in the regular issue with the five greatest lawyers ever, we have cartoons, and we finally have a point/counterpoint.

We're missing the last segment of our survey results because frankly, we ran out of room. Plus, we're hoping to have a couple articles tied into some of the results and we didn't want them to have to compete with all the features we already had lined up.

Finally, we're hoping to have a *Motions* social event in mid April to inaugurate our new club. That's right, *Motions* now works symbiotically with the Motions Writer's Club to provide more opportunities for contributing writers and any interested members of the law school to potentially have a book club, bring in guest speakers on media law, and as a way of giving back to the community, volunteering to read to children. Look for fliers and as always, please contact me with any comments or concerns. Thanks!

Jared D. Ackley
editor-in-chief

Inside the Professor's Office

by Jared D. Ackley, *editor-in-chief*

Our interviewee for March's "Inside the Professor's Office" is Professor Frank Partnoy. Mr. Stock Option (you learn a lot about these often overlooked value-creators in his classes) teaches and researches in the areas of corporate law, corporate finance, and market regulation. Before joining the faculty in 1997, Professor Partnoy spent time working as an investment banker in New York and also as an attorney in Washington, D.C. His observations of life on Wall Street are chronicled in two of his works, *Greed: How Deceit and Risk Corrupted the Financial Market* and *F.I.A.S.C.O.: Blood in the Water on Wall Street*.

The affable Professor Partnoy always makes sure to prepare his students not only on the mechanics of derivative suits and the Business Judgment Rule, but also on real world practicalities such as "cocktail lingo" (Don't say subsidiary, say sub) and how to predict the weather using the market. Professor Partnoy also mentioned numerous times that studies have shown people can only pay attention for eight minute segments at a time. We'd better get started. Thanks to Professor Partnoy for participating.

Motions: What is your favorite word?

Professor Partnoy: That would be Jayhawk (Professor Partnoy attended the University of Kansas for undergrad and as I type this interview out, they are up 3 points in the first quarter of their Sweet 16 game against Southern Illinois.)

Motions: What is your least favorite word?

Professor Partnoy: I guess that would be any word

used by a law professor when they don't have to, like epistemological.

Motions: What turns you on legally, creatively, spiritually or emotionally?

Professor Partnoy: Anything that involves a lot of money.

Motions: What turns you off?

Professor Partnoy: People who take themselves too seriously turn me off.

Motions: What is your favorite legal word?

Professor Partnoy: Derivative.

Motions: What sound or noise do you love?

Professor Partnoy: I don't know if people know that I have a family and a dog outside the classroom. I'll say two things: my yellow lab Fletch howling when I come home and the singing voice of my seven year old daughter.

Motions: What sound or noise do you hate?

Professor Partnoy: I hate the sound of lawnmowers – something about my childhood and mowing lawns.

Motions: What profession other than law professor would you like to attempt?

Professor Partnoy: I've always wanted to be a bartender; have my own little place. I think that would be fun.

Motions: What profession would you not like to do?

Professor Partnoy: Corporate Law.

Motions: If you were in front of the U.S. Supreme Court, what would you like to hear The Chief Justice say after you have walked through the marble Corinthian columns?

Professor Partnoy: I think maybe what I'll say is, aren't you the guy who used the word "f__" three times at your moot court competition at Yale? (A competition he won).

Mentoring: It's Your Turn

by Catherine L. Tran, *staff writer*

I definitely do not have all the answers. No one really does, but it does not mean that I do not have something valuable to share or something from which others may learn.

Every fall, the Student Bar Association organizes a mentoring program that matches incoming first-year students with upper-class students. First-year students who sign up to be matched with mentors usually far outnumber the 2Ls and 3Ls who are willing to mentor. This year many mentors each had three or four mentees, which dilutes the effectiveness of the program.

You may have an excuse: I don't have the time; I don't know anything; or I wouldn't be a good mentor. However, mentoring does not have to be time consuming. You do not have to be a star student either. Trust me, with at least one year of law school under your belt, you are qualified to be a mentor to 1Ls. All you need to do is share your experience. If you get asked about something you do not know, you can simply point your in the right direction or or you can ask your friends if they know the answer.

Mentoring others is one way you can help first-year students to develop their legal education and find a career path. Most people have benefited from the wisdom and experience of others; it is only fitting to give back by doing the same for those who come after you. During my first year, the extensive advice and help I received from 2Ls and 3Ls made my life easier and more manageable.

What can you do for your mentee? Here are some possibilities. The important thing is to give your mentee ideas they can use – whether or not they put them

to immediate use. What works for one person will not necessarily work for others, but it may. It is your job as a mentor to shed light on the many tools your mentee has access to, but ultimately, it is up to your mentee to take your advice and insight or leave it.

Get information about your mentee's professors. Does the professor lecture or use the Socratic method? What is the format of the exam: multiple-choice, race-horse issue spotting, policy essay, short-answer or a combination? Explain the concept of push and pull points, and remind your mentee to find out about her professors' policies. Perhaps the professor likes certain hypotheticals or frequently uses particular phrases.

Discuss study strategies. Tell your mentee what you did and why you think it worked or did not work for you. Did you study alone or in a group? What study aids did you use? Explain what you would have done differently, if anything.

Please see Mentoring, continued page 9

Sudoku Solutions from February

Hard

#3

4	7	1	5	9	3	8	2	6
5	8	6	2	7	1	3	4	9
2	9	3	6	4	8	1	7	5
9	6	2	7	1	5	4	8	3
8	4	5	3	6	2	9	1	7
3	1	7	9	8	4	6	5	2
6	5	4	8	2	9	7	3	1
1	3	9	4	5	7	2	6	8
7	2	8	1	3	6	5	9	4

Medium

#3

2	1	7	3	8	4	6	9	5
4	5	9	2	7	6	1	8	3
6	8	3	5	9	1	4	2	7
5	4	2	8	6	9	3	7	1
1	3	8	7	5	2	9	6	4
7	9	6	1	4	3	8	5	2
3	6	1	9	2	7	5	4	8
8	2	4	6	1	5	7	3	9
9	7	5	4	3	8	2	1	6

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Wednesday, April 18, 2007

6:30 pm to 10:30 pm

CONTRACTS II - U.C.C.

BRIEF REVIEW OF FORMATION & DEFENSES, THIRD PARTY RIGHTS, PERFORMANCE, BREACH, REMEDIES

Friday, April 20, 2007

6:00 pm to 10:30 pm

CORPORATIONS

FORMATION, POWERS & MANAGEMENT, DUTY OF CARE/LOYALTY, SEC VIOLATIONS, CLOSED CORPORATIONS, FUNDAMENTAL CHANGES IN CORPORATE STRUCTURE

Sunday, April 22, 2007

12:00 pm to 4:30 pm

CIVIL PROCEDURE II

JOINDER, DISCOVERY, SUMMARY JUDGMENT, ATTACKS ON THE VERDICT, APPEAL, RES JUDICATA, COLLATERAL ESTOPPEL

Wednesday, April 25, 2007

6:30 pm to 10:30 pm

REAL PROPERTY II

SALE OF LAND, RECORDING ACT, EASEMENTS, PROFITS & LICENSES, COVENANTS, EQUITABLE SERVITUDES, ZONING, EMINENT DOMAIN

Thursday, April 26, 2007

6:30 pm to 10:30 pm

TORTS II

NEGLIGENCE DEFENSES, SURVIVAL STATUTES, WRONGFUL DEATH, STRICT LIABILITY, VICARIOUS LIABILITY, PRODUCTS LIABILITY, NUISANCE, MISREPRESENTATION, BUSINESS TORTS, DEFAMATION, INVASION OF PRIVACY

Friday, April 27, 2007

6:30 pm to 10:30 pm

CRIMINAL LAW

FUNDAMENTAL OBSERVATIONS, INCHOATE CRIMES, CRIMES AGAINST THE PERSON-HOMICIDE, HABITATION, THEFT CRIMES, CRIMES AGAINST PROPERTY INTERESTS, MISC. CRIMES, DEFENSES

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CATwalking: WHAT ARE YOU DOING OVER SPRING BREAK?

by Catherine L. Tran, *staff writer*

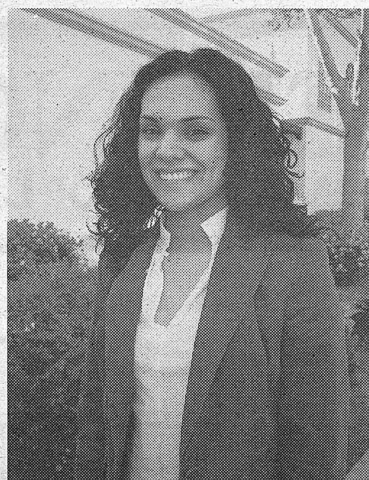
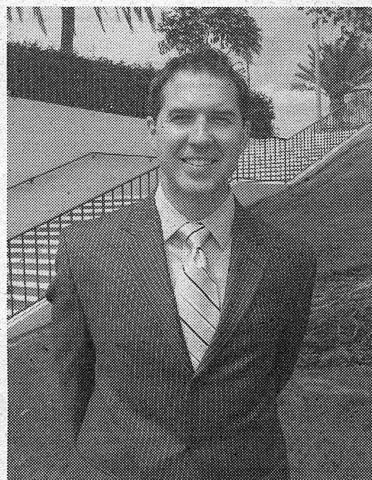


"I will be outlining."

- LaNelle Saucedo, 1L

"First, I am going to New York with Laura Beatty and Marvin Roeder to compete in a moot court competition on evidence. Then I am going on a road trip to Santa Barbara with my family."

- Mark Rackers, 3L



"I am traveling to Costa Rica to spend time on the beach and explore the rain forests."

- Angela Dominguez, 2L

"I will spend the week in New Orleans with the Student Hurricane Network to help with relief efforts."

- Kristen Santerre, 2L



"I am flying to Houston for a friend's wedding."

- Todd Headden, 1L

Gardacil: How Informed Are You?

by Jenn Chou, *associate editor*

The Food and Drug Administration (FDA) approved Gardacil, a vaccine against Human Papilloma Virus (HPV), in June of 2006. The vaccine prevents types 6, 11, 16, and 18 of HPV. Types 16 and 18 are responsible for about 70 percent of cervical cancers, and types 6 and 11 cause about 90 percent of genital warts. The vaccine is approved for females between the ages of nine and twenty-six.

HPV is the most common sexually transmitted disease in the United States. According to an FDA press release, around 6.2 million Americans are infected with HPV each year. There are about 9,710 new cases of cervical cancer and 3,700 resulting deaths each year.

The FDA's press release describes the actual studies conducted prior to approval, which included effectiveness as well as the safety of Gardacil. The results of a test on 21,000 women indicated that in women who were not previously infected by HPV, the vaccine was close to 100 percent effective in preventing precancerous lesions and genital warts caused by the four types the vaccine targets. A safety test conducted on about 11,000 women showed that most adverse reactions were limited to soreness at the site of injection.

"The development of this vaccine is a product of extraordinary work by scientists as well as by FDA's review teams to help facilitate the development of very novel vaccines that address significant public health needs," says Andrei Perlloni, a consumer safety officer at the FDA.

Texas Gov. Rick Perry became one of the first to issue an order to the state's Human and Health Services to institute a mandate of the vaccine for all girls entering the sixth grade. Many other states have instituted similar measures.

The religious right has voiced their opposition to such mandates, citing concerns about increased promiscuity. Social conservatives in Texas are particularly concerned that the Gardacil mandate runs counter to the state's abstinence-only education program. Other opponents of the mandate cite privacy concerns and parental rights.

USD began offering Gardacil at the student health center in fall of 2006. The vaccine is a 3-dose series, and is recommended for women up to the age of twenty-six. The health center charges \$130 for each dose of the vaccine, which is exactly what it costs them to obtain it. There is also a patient assistant program for students that may not be able to afford the full cost.

"I don't know about a mandate, but I do believe the vaccine should be highly recommended," says Gina Fleming, the Director of the Student Health Center. "As far as mandates go, the cost can be prohibitive for people."

According to Perlloni, Gardacil is not approved for use in males, but the manufacturer is currently conducting studies on its effectiveness and safety in men. "Once the study is complete and submitted to the FDA, the agency will review the data and decide whether to approve Gardacil for males."

Death Penalty: To Be or Not To Be

by Rosario Santoyo, *staff writer*

That is the question. Many struggle with this issue. Whether it is abortion, euthanasia, assisted suicide, or the death penalty, the legal community is often faced with having to fight for either a "yes" or "no" answer. The troubling factor is that when attorneys do argue for one side or the other, it deals with the life of someone else. Is this really a question to have decided for you? As future practicing attorneys, many of us will one day be placed in a position that forces us to choose whether a person should live or die. The death penalty is one of the most controversial aspects of this question.

Your task becomes to save a life. The life of someone else is placed trustingly in your hands. Someone's hopes, dreams, and future rests on your shoulders. Does this refer to the life of the defendant or the life of the future victim? That depends on how you look at things.

If you accomplish your task, a new victim may be added to the list of lives the defendant has taken. Some convicted murderers have continued their massacres while in prison by befriending fellow convicts and providing "hit lists" to other inmates. An example is Clarence Ray Allen who had a witness that testified against him murdered, along with two others, after his conviction and all while in prison for his first murder.

Could anyone have saved the life of Bob Naumoff, who was murdered in his convenience store by Robert Lee Massie? Massie was convicted of attempted murder and capital murder in 1972 when the death penalty was over-turned. Naumoff was killed after Massie was paroled in 1978.

Could imposing the death penalty have saved the life of young mother Terena Fermenick, who was murdered by Giles Albert Nadey after he was convicted

of four felonies and served several prison terms? She was raped, sodomized, stabbed, and murdered in her home.

Others have been inspired to kill after their first conviction to prevent future witnesses, such as William George Bonin, who sodomized and killed 18 young boys within a year after being released on parole for multiple rapes.

A future victim may be spared, unknowing of his premature demise in the hands of a convicted felon. Your task becomes to end a life. A murderer with the tendency to commit murder again will be out of the equation in a pre-emptive strike. How many lives are saved, we will never know. The future-crimes deterred are all estimates. Nothing is certain.

While there are stories of victims of murderers who intimated that they would kill again, there are also stories of people convicted of a murder and sentenced to death, only to be exonerated by DNA evidence at a later date. Does it make sense to kill someone in order to show that killing is wrong?

This article was not written to convince you to either oppose or favor the death penalty. I often struggle with the issue myself. It is simply to get the message across that practicing law can often be a life or death situation. That isn't always with regards to your client, but also to other human beings counting on the justice and legal system to protect them. Whether or not you are in favor of the death penalty, the gravity of this question is not to be taken lightly. While most of those put on trial for an offense great enough to be on trial, merit the thought of the death penalty; we must also remember that a person's life is not to be taken without due consideration. In the end, does everyone deserve "to be?"



The Criminal Law Society Board (from left: Tara Aguilar, Rosario Santoyo, Joy Shedlosky, Catherine Tran, Marissa McArthur, Kimber Williams and Rodger Pasieczny) organized its second wine-and-cheese mixer on March 21st. Local criminal prosecutors, defense attorneys, students and faculty attended. Photo credit: Catherine L. Tran.

SPECIAL FEATURE: WOMEN IN THE LAW

Women's Law Caucus Raises \$7,700 for LRAP and Becky's House

by Kathryn Snyder, *staff writer*

Women's Law Caucus (WLC) wrapped up another Faculty Auction on Wednesday, February 21, 2007. To say it was a success would be an understatement. Almost all of the items sold for more than their pre-sale estimates, the final take was more than expected, and the auction made more than it did last year. "The WLC made \$7,770 this year which is fantastic!" said Lindsey O'Hair, WLC Faculty Auction Chair. "How it will be divided is still yet to be decided, but primarily between LRAP and Becky's House, a transitional shelter for victims of domestic violence and their children. A small portion will be going to the WLC so the WLC can continue to put on fabulous events like the Auction and Speed-Networking."

The star-studded event featured Professor Kelly and Professor Devitt as the fabulous auctioneers. "The auction is always a fun time, not just because we raise so much money for good causes, but because of the emcee performance of Professors Devitt and Kelly," WLC President, Maria Shih, commented. "Professor Kelly primes the students with his philanthropy speech and it's off to the races. The bantering between students and the emcees often results in hilarious, nail-biting bidding wars."

"They truly are a blessing to the auction," O'Hair said. "I think students come primarily to watch them in action and to bid on their donated packages."

Opportunities to have meals with faculty were the big winners. Professor Laura Berend donated a dim sum lunch for four at Jasmine or Emerald that will include members of the criminal prosecution and defense bar in San Diego. The most popular auction item was a five-course dinner and wine pairing for eight students with Professors Claus, Devitt, and the Panikowski. This prize was the most expensive item of the evening, with Erin Doyle, 3L, capturing the prize at \$1,800. "It's always a high-earning item so I expected it to go for around \$700, but then the bidding kept going and going and going and going and next thing you know Erin Doyle was bidding \$1,800! I couldn't believe it," exclaimed O'Hair. "But huge thanks to Erin for her generosity and bid-happy arm because that really contributed to the fundraiser's earnings."

To tempt our taste buds, the five-member cooking team provided a sample menu:

First Course: Crab cakes with cilantro aioli & champagne; sausage and three cheese stuffed mushrooms & Sauvignon Blanc;

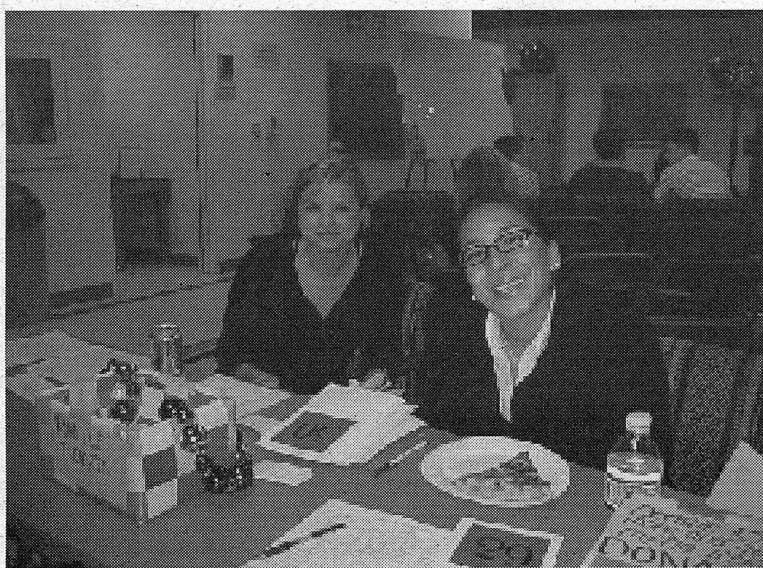
Second Course: Roasted squash soup with crème fraîche and smoked salmon & Viognier;

Third Course: Mixed greens and candied walnuts in a mustard vinaigrette with dried fig and goat cheese brulee, crostini & Chardonnay;

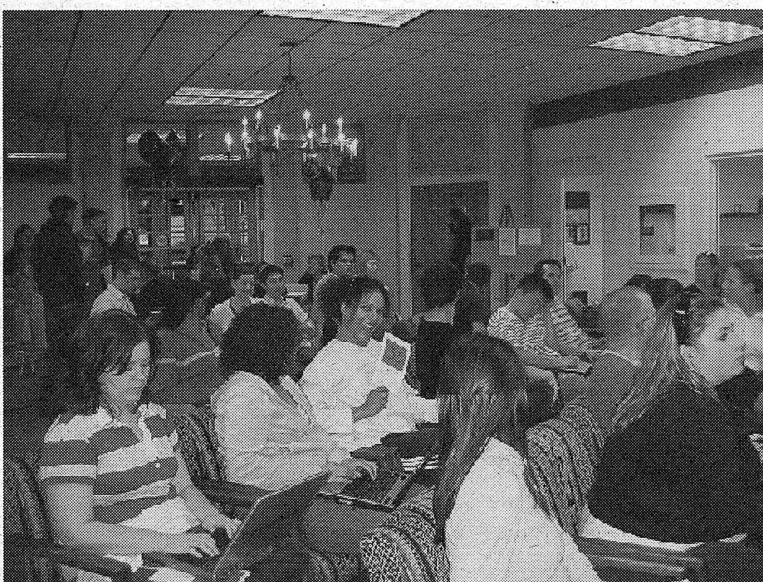
Fourth Course: Beef Wellington with mushroom deluxe, gorgonzola and a port wine sauce, wild rice, and lemon asparagus & Zinfandel; and Fifth Course: White chocolate lava cakes with blackberry coulis and framglico whip cream & Sauterne.

Other auction items included wine tasting with Professor Allen Snyder when he returns from his sabbatical in China, and a matching necklace and earrings set made by Karen Spidel, Administrative Assistant for Dean Carrie Wilson.

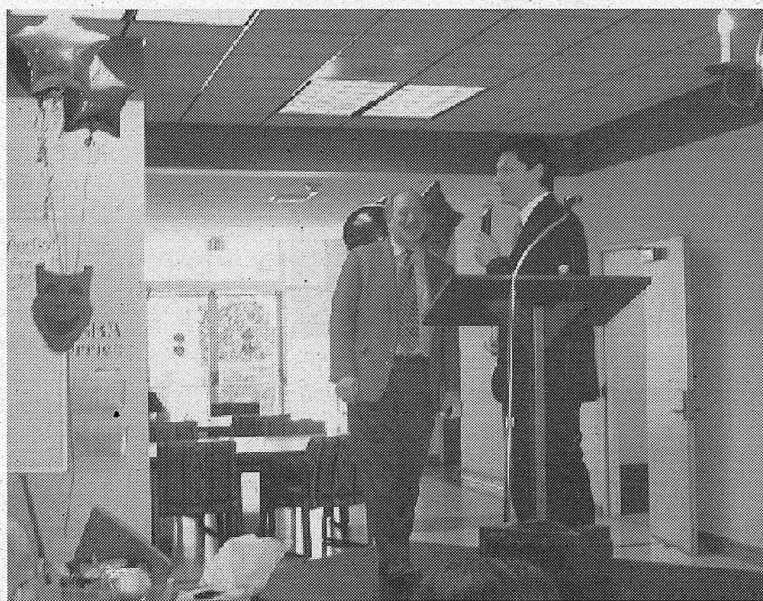
Career Services' "Finals Prep Pampering Package" was a popular item. With parking so difficult to find on our campus, a reserved parking space in the law school parking lot was donated by Kay Manansala, who works in the Dean's Office. One beverage (coffee, juice, water, or soda) per day will be hand delivered by development/alumni-relations staff to an on-



WLC members Lindsey Stevens and Christine Diaz check in auction participants at the Faculty Auction



Students await the chance to bid on the faculty's coveted prizes in the Writs just before the auction started



Professors Kelly and Devitt get the crowd pumped up

campus location of the student's choice (with the option of having a campus cash card instead of hand delivery valued at \$15).

The package also included homemade banana bread, chocolate chip cookies or brownies, finals prep supplies to sustain and de-stress at the end of the semester, and free black and white printing at the Development and Alumni Relations Office for up to 100 pages (with the option of emailing the documents to the office ahead of time for easy pick up).

For those who enjoy the exciting world of International Business Transactions (there were a couple), Professor Ralph Folsom offered *International Business Transactions in a Nutshell* by Folsom, Gordon and Spanogle, and *International Business Transactions: A Reader* by Folsom, Gordon and Spanogle. Professor Hugh Friedman offered an autographed copy of the latest edition of his two-volume California corporate practice treatise "Corporations," to be presented at a lunch he hosts at a San Diego restaurant of his or her choice.

This year's creativity award goes to Lawyering Skills Professor Junichi Semitsu, who offered for students to hire him to play the piano for 2 hours at an event of their choosing. Junichi's auction item description read: "Need background music for your organization's cocktail hour or romantic date? Want to host a piano bar sing-a-long? Always longed to have a Lawyering Skills instructor play Journey's greatest hits while you fold your laundry? So long as you provide

Please see Faculty Auction, continued page 12

Pissed Off Chicks:

The Women's Resource Fair

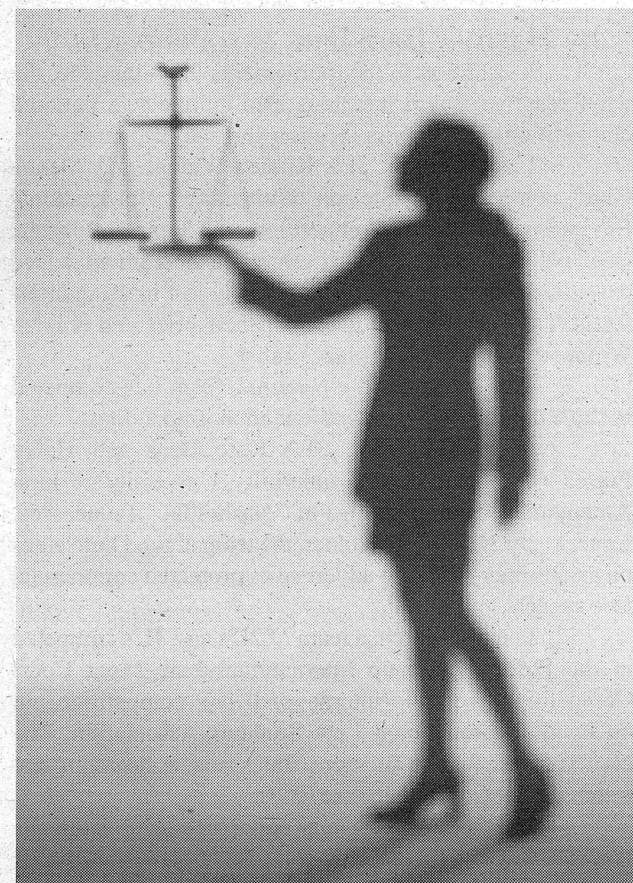
by Christine Diaz, *staff writer*

Many law students donate time and knowledge to pro bono legal work at local clinics or non-profit agencies, but at least once a semester, it's nice to put the law aside and engage in some old-fashioned community service. The Women's Resource Fair is an annual event that offers as many resources as the organizers can pack into Golden Hall at the San Diego Concourse. The Fair is a one-stop-shop for improving the mind, body and soul of homeless and abused women from San Diego County. The services offered to these women range from practical health and social services, to self-defense classes, to special treats like make-up lessons and eyebrow and lip waxing. Specialists were on hand to educate the women on reproductive health, cancer prevention, and the application process for Healthy Families and Medical insurance. Doctors were available to administer various screenings and tests such as pap smears, cholesterol and glucose readings, and breast examinations. Dental hygienists conducted dental screenings. Social service organizations such as the Family Health Centers of San Diego, Planned Parenthood, USD Law Legal Clinics and various shelters and community organizations sent representatives to sit in row after row of booths and distribute literature and advice.

Beyond the practical resources, the Women's Resource Fair also offered more creative modes of support. There was a "spirituality corner" where priests, rabbis and pastors of various denominations were available for counsel. On the other end of the spectrum, volunteer Carolyn Sam, 1L, assisted in a make-up application seminar hosted by a Mary Kay Cosmetics consultant. "So much of how you feel has to do with one's appearance. It all ties in with dignity, and everyone who left seemed really happy" More happy faces shone after attendees had the opportunity to engage in the "Pissed-Off Chicks" self-defense class. Carolyn recalls hearing yelling and clapping as each attendee was coached in fending off a mock assault.

The organizers of the Women's Resource Fair rely on the invaluable support of English- and Spanish-speaking volunteers that help the day run smoothly. The Fair truly has something to offer for every style of volunteering. Most of the attendees have no means of private transportation. About 10 volunteers met at the San Diego Concourse early in the morning and, armed with a stack of maps, boarded school buses venturing to all ends of San Diego County to pick up the attendees. Buses were dispatched to the South Bay, El Cajon Valley, and Oceanside to pick-up women at both private residences and group homes. The volunteers' primary responsibility was to guide the bus driver, but just as importantly, to get the women excited for the day's events.

Says a USD 1L who guided a bus to Oceanside, "it was interesting to hear stories of the ladies' personal struggles. I couldn't solve their problems, but I was able to give them the name of specific organizations present at the Fair where they could seek help." Doug Wacker, 1L, assisted with parking and said of his



MOOT COURT & MOCK TRIAL

Trial Team Completes Another Successful Year

by Hasmik Badalian, *associate editor*

With three national competitions in the spring semester and an intramural tournament next month, the USD Mock Trial program continues to prepare some of San Diego's finest for the litigation world. Like every other year, the Trial Team competed in two of the nation's most prestigious competitions. This year, however, the program sent one more team to an additional competition.

TYLA: In the spring, the Texas Young Lawyers Association (TYLA) hosts the National Trial Competition (NTC). Co-sponsored by the American College of Trial Lawyers, NTC is one of the oldest and most prestigious mock trial competitions in the United States.

Every ABA-accredited law school in the country is invited to compete in this annual competition. The top 2 teams from each of the 13 regional tournaments advance to the championship rounds in Texas.

The TYLA tournament is distinct from most other mock trial competitions because teams are made up of 3 students, not 4, and witnesses are not played by team members. Instead, local law school students volunteer to play the role of the corresponding witnesses. Advocates are given 15 minutes prior to the start of a round to meet with and prep their witnesses for direct examination.

"Meeting your witness for the first time the night of the trial can be challenging," said Hannah Cole, 3L. "You have 15 minutes to explain to the witness the case, their role, what to expect during the trial, and to try to get them to think of themselves as part of your team so that they want to help you while they're on the stand."

"On the other hand, cross examining a witness who does not play an attorney for the other team can be

much easier because they are less likely to put up a fight during the cross examination."

This year, USD sent two teams of three students each to the regional competition in Salt Lake City, UT on February 8-11. Here, USD competed against 14 other teams for the top two spots.

The TYLA case file is always criminal and this year, the problem revolved around a burglary of a widow in her home. The sticking point for the prosecution was whether or not the identification of the burglar was accurate based on fingerprints left on a Hershey's chocolate bar. The defense in this case pointed the finger to another suspect, a hustler, who was never found.

After two rounds, TYLA makes a drastic cut from 16 teams to the semi-final round of 4 teams. Unfortunately, the TYLA team consisting of 3Ls Katie Payerle, Hannah Cole and Michael Etchepare got caught on the harsh end of this cut and did not advance past the preliminary rounds of the competition.

The team comprised of 3Ls Alexa Treichel, Anne Warner and Trevor Flynn advanced past the prelims only to lose to Cal Western in the semi-final round. Along with Pepperdine, Cal Western went on to win one of the coveted top spots in the tournament.

"Competing in the TYLA tournament was a great experience," said Katie Payerle, 3L. "I'm extremely proud of our showing."

"The best part is that regardless of wins or losses, after watching the team perform at the competition, I would feel 100% confident

Please see Mock Trial, continued page 7



Four mock trial team competitors who advanced to the semi-finals in Santa Monica's AAJ regional. Left to right: Christine Yung, Samantha Campbell, Kristie Nikoietich, and Sandra Peña. Photo credit: Lisa L. Hillan, Esq.

National Moot Court Team Reports

by Hasmik Badalian, *associate editor*

In addition to the tournaments they organize, the ten Executive Board members also compete in national competitions that vary in location and subject matter.

Last semester, 3L's Kirsten Widner and Alanna Pearl competed in Stetson University's International Environmental Law Competition in Tampa, Florida. Coached by Laura Beatty, 3L, the Stetson team advanced past three rounds where they eventually lost in the quarter-finals. They received 6th place for their brief and Kirsten Widner was awarded 3rd place oralist.

This semester, the National Team has competed in three competitions and has one more impending.

In mid-February, 3L's Kate Berg and Haley Frasca competed in Vanderbilt University's First Amendment Competition in Nashville, Tennessee. Coached by 3L Kirsten Widner, the team argued both sides on an attorney's right to advertise as protected commercial free speech.

In early March, a team of 2L's and 3L's competed in the Philip C. Jessup International Law Moot Court Competition, a public international law competition put on by the International Law Students Association. The case is between two or more states and is heard by the International Court of Justice (ICJ).

This year's problem concerned four subjects:

Please see Moot Court, continued page 7

McLennon, continued from page 1

to argue both sides of the case. After the preliminary rounds, the first cut was made and the top 32 students moved on to the third round.

In the third round, held on March 5th, competitors were matched against each other based on a combination of both brief and oral scores from the first two rounds. In each match-up, the competitor with the higher brief score was allowed to pick the side he/she would argue.

"Although sometimes lost in the course load of 'normal' classes, the written appellate brief is critical to a successful moot court experience," said Joel Morgan, 2L. "Not only does a thorough and accurate brief familiarize you with arguments and counter-arguments, a good score on one's brief has an important tactical advantage of allowing a competitor to pick the side he/she argues. Having a choice of arguments goes a long way towards relieving some of the oral argument anxiety."

The third round was also unique because it began the single elimination rounds, meaning that each judge panel was required to pick one winner between the two competitors.

"The single elimination rounds are especially tough because depending on how you are matched up. You may knock out a person who deserves to advance, or get knocked out yourself," said Kelley O'Connell, 2L. "You are both equal in poise, preparation and skill, but the judges must pick only one competitor. At the end of the day, one person moves on and one person goes home, but

Please see McLennon, continued page 7

Confessions of a Moot Court and Mock Trial Slacker

by Brennan S. Kahn, *staff writer*

It is February 15, 2007 at 3:00 a.m.: three days before my birthday and a wedding I'm going to in Santa Barbara. I have a noon deadline, and I ask aloud, "why do I do this to myself?" These thoughts have persisted for more than a month – since the day I handed in my affidavit to the Moot Court Board at the 2007 McLennon Honors Moot Court Competition meeting. They said, "Once you sign your affidavit, you're committed. If you pull out, it might be an honor code violation. Turn in the affidavit, and come pick up your record." Mine said number 72 on the cover. Two days before my written brief was due I found out that this meant I was writing for the Respondent. One week went by, then two, then three, and then finally it was 3:00 a.m. – about nine hours until the deadline.

Some history is in order. I did not do well my first year of law school. Obviously, I didn't get kicked out. Academic support had something to do with that. I did manage to pull off grades that would have made my freshman year grades blush, though. I knew employers needed more than my poor grades could offer. Immediately, I went into spin mode. What could supplement my poor grades until I got them up to respectable levels? Pro Bono? Check. Internship? Check. Club activities? Check. Motions staff writer? Check. What else was left? The answer came to me almost as if by divine intervention; a friend asked me, "What is Moot Court?" I would find out.

My plan was simple – enter the Fall 2006 Moot Court Torts Competition and pull out every tidbit of knowledge I learned from the second semester of Lawyering Skills I. I don't know how (or maybe I do), but it turned out that what I learned was to wait until two days before the deadline, spend one whole day researching (and digging into my Torts outline), and stay up all night writing the appellate brief. I rationalized to myself, "with our hectic schedules, is procrastination in law school even a choice? No, it's a necessity." A few weeks later, three hours or so before the oral arguments component of the competition, I hurriedly put together an outline that, at the very least, would give off the appearance that I tried. I knew that the brief was worth something like thirty-five percent of one's score in the first round, so I probably had no chance anyway. I made it to the second round. Apparently, simply writing my brief in the proper format was enough.

I tasted blood. My eyes wide open, I felt as though I found Shangri-la. For the small expense of a sleepless night, I had a resume stuffer. Yet, there was this lingering thought I couldn't ignore. Last semester I was a trial witness in some tournament for a friend of mine. Did I somehow experience Mock Trial without knowing it? Seems I did. Immediate fact-finding was in order. I asked my friend what it was all about. No written brief? Small case file? Only need a few hours for preparation and prepping the witnesses? With each word, it became clear Moot Court was a false prophet and Mock Trial was the Messiah. I signed up immediately.

Knowing myself, and being the masochist I am, was there any doubt what I would do next? Of course not, I'd do something stupid. I read a flyer for the Fall 2006 Jessup International Moot Court Competition. Sometimes I wonder if literacy is worth it. They say ignorance is bliss, right? Of course I couldn't resist, and I began scrambling for a partner to participate in Jessup. I first asked one of my fellow competitors from the Torts competition if she was interested. I was brutally rebuffed. Unfortunately, that wasn't enough to stop my blind ambition. I asked another friend of mine, who I knew would be more than competent,

Please see Confessions, continued page 7

Moot Court to Pick New Board

by Hasmik Badalian, *associate editor*

With the conclusion of the McLennon competition, the only major organizational task left for the Board is to recruit its successors.

The Executive Board has sent out invitations to replace the Executive Board and is accepting applications for the new Associate Board.

The Executive Board is responsible for all tasks related to hosting tournaments and promoting appellate advocacy at USD. In addition to serving on the Executive Board, National Team members travel and compete in nationwide tournaments.

The Associate Board also helps in hosting tournaments and is an excellent way for interested 1L's to get involved in appellate advocacy and meet members of the local Bar.

McLennon, continued from page 6

that's how any great tournament works."

After the third round, 16 students were selected to move on. Match-ups and sides argued in the fourth round were done similarly to those in the third round. The top oralists from each courtroom were announced directly following the fourth round and the top 8 students immediately proceeded to their next courtroom assignment to argue the fifth round. At the conclusion of the fifth round, the four semi-finalists were announced.

Unlike the first five rounds, which were held in the downtown courthouse, the semi-final round was held in the Grace Courtroom on campus. The semi-final round was unique in that the judge panel would hear from all four competitors and pick the top two to move on to the Final Round. It was not a single-elimination round; the panel ranked each competitor and the top two moved on.

The semi-final judge panel consisted of Chief Justice Dean Kevin Cole, assisted by Professor Yale Kamisar and Senior Assistant Attorney General Gary Schons. The semi-final panel picked the top two competitors, Andrew Haden, 2L and James DeSilva, 2L, as finalists. The final round was held on Friday, March 9th in the Institute of Peace and Justice.

The final round judge panel was comprised of the Honorable M. Margaret McKeown, 9th Circuit judge, acting as Chief Justice, assisted by the Honorable

Rosemary Barkett from the 11th Circuit, and Professor Michael Ramsey. Both competitors superbly represented USD, demonstrating their abilities through exceptionally difficult questioning. At the conclusion of the final round, the panel announced the first place competitor. An awards ceremony and dinner banquet followed.

Overall, McLennon persisted for four weeks of class and brief writing, and two weeks of oral competition.

"The hardest part about McLennon is how long it lasts," said Hali Henderson, 2L. "I think most of my professors started thinking that I dropped out of school and my fiancé thought I moved out." "And, I wasn't even sure what was going on. It was like I had been sucked into this McLennon wormhole. And then just like that, it's over and even though you are upset, you are also thankful that you had the opportunity to compete and that you are now able to return to your classes and possibly earn a B."

This year's competition was wildly successful. Over 70 students competed and more than 300 local attorneys and professors served as judges.

The final round of McLennon marked the end of the Moot Court Board's organizational work for the year. After running three intramural and one national competition, the Board is now focused on its National Team Competitions.

McLennon, Sr. Honors Moot Court

Best Overall

1. Andrew Haden
2. James De Silva
3. Hasmik Badalian
4. Jason Pequignot

Best Brief - Petitioner

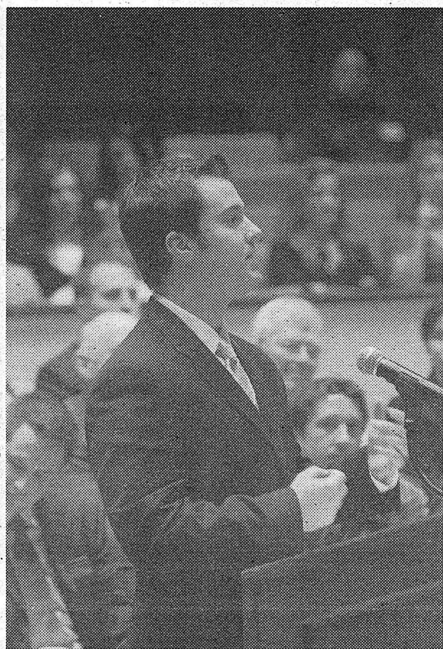
1. Lindsay O'Hair
- Jason Pequignot
3. Lauren Hwaley
4. Joel Morgan

Best Brief - Respondent

1. Agnieszka Jones
2. Ange & Dominguez
- Lyndsey Tadlock
4. Grace Hwang

Best Oralist

1. Kelley O'Connell
2. Rob Uriarte
3. David Voyles
4. Alexandra Grubb



McLennon Finalist James DeSilva, 2L.
Photo by Jim Coit



L-R: James DeSilva, Professor Michael Ramsey, the Honorable M. Margaret McKeown, 9th Circuit judge, acting as Chief Justice, the Honorable Rosemary Barkett from the 11th Circuit, and Andrew Haden. Photo by Jim Coit



McLennon Best Overall Andrew Haden, 2L. Photo by Jim Coit

Mock Trial, continued from page 6

hiring any of my teammates if I ever landed in a tough spot out in the 'real world!'"

AAJ: The American Association for Justice (formerly known as ATLA) sponsors the National Student Trial Advocacy Competition every spring.

Teams are assigned to one of fourteen regional competitions. While a school can submit more than one team, only the top team from each region advances to the National Finals in New Orleans, LA.

In general, teams are judged on their skills in case preparation, opening statements, use of facts, the examination of lay and expert witnesses, and closing arguments. Unlike TYLA, witnesses are not supplied by the hosting school. Rather, team members not acting as advocates play the witnesses for their peers.

AAJ's mock trial cases are always civil and tend to deal with products liability, personal injury, or medical malpractice/negligence issues. This year's case involved a horrific car accident between an elderly individual and a dump truck. The case raised questions of contributory negligence and gross negligence and tested students' ability to personalize the truck driver and get past typical prejudices against elderly drivers.

The AAJ Regionals took place in Santa Monica, CA the first weekend of March. The tournament was set-up such that all 16 teams competed in 3 qualifying rounds. The top 4 teams at the end of those rounds went to the final rounds. The top two teams from the final rounds moved on to Nationals.

Similar to TYLA, one of the teams got very close to victory. The all-girl combination of 3Ls Sandra Pena, Christine Young, Samantha Campbell and Kristie Nikoletic went into the 3rd qualifying round in 4th place. To move on, the team needed to win that round. Unfortunately, however, the team lost that round to Southwestern. Also unfortunate was that the AAJ team made up of 3Ls Susan Winkelman, Sean Oswill, Connor Hulburt and Leslie Flint

Please see Mock Trial, continued page 10

Moot Court, continued from page 6

(1) the obligations of supernational organizations toward potential members of those organizations; (2) whether a supernational organization can bring a claim before the ICJ; (3) the rise and nature of privileges and immunities given to diplomats of supernational organizations; and (4) what constitutes an illegal expropriation of assets in the international arena.

Every year, the winner of each regional competition advances to compete in the international rounds in Washington, D.C. This year, USD competed in the Atlantic Regional, held the weekend of March 2-4 at the sponsoring law firm of Shearman & Sterling, L.L.C. located in midtown New York.

The USD Jessup team was comprised of 2L's Dan Owens and Carolina Bravo-Karimi, and 3L's, Aileen Banellis and Vanessa Maync. Coached by Alanna Pearl (3L) and Christopher Moffitt (3L), the Jessup team advanced to the semi-final rounds, where it was narrowly beaten by Fordham. Fordham, in turn, lost to Columbia University in the finals.

Maync, a Moot Court Executive Board Member, was selected to compete again after her remarkable scores in last year's Jessup Pacific Regional. The remaining three competitors (Owens, Bravo-Karimi, and Banellis) were selected among the best competitors of USD's intramural Jessup competition, held last fall, written and coordinated by Christopher Moffitt, 3L.

In addition to advancing to the semi-final round, USD brought home a number of awards, including 5th Place Oralists (Carolina Bravo-Karimi), 9th Place Oralists (Aileen Banellis), and 1st Place Memorial (brief). These standings were with respect to all 16 teams and 62 oralists competing in the Atlantic Regional.

During the weekend of March 8-10, 3Ls Chandelle Kostanzer and Rory Diamond competed in the ABA's National Appellate Advocacy Competition Regionals in Las Vegas, Nevada. Coached by 3L, Alaina McDonald, the team fared excellently. Kostanzer and

Please see Moot Court, continued page 9

Confessions, continued from page 6

and, like me, never seemed to turn down a challenge she should otherwise avoid. Knowing my luck, she said yes. You may ask why this is all so tragic and unfortunate, especially since I brought it on myself. First of all, I am just nuts. Secondly, here is the part that just makes me shake my head. When all was said and done, I learned that the Jessup written brief deadline, my Lawyering Skills II mock trial, the Mock Trial tournament, and the Jessup oral arguments all fell on four consecutive weekends during a one-month period. All, of course, leading into my final exams for the semester. I told you I was nuts. Believe me next time.

So Jessup comes along. What is International Law? Apparently, it is anything and everything one can find and manage to convince a judge is a credible source; everything is persuasive authority and there is no binding authority. Great. This means more creative thinking (i.e., more effort). Not for me though, because I had a reputation as the world's greatest procrastinator to uphold. Another two days prior to the brief deadline, another day of research, another all-nighter writing the brief, and another three hours prior to the oral arguments writing up an outline. But this time, fourth place overall. I got this nifty glass-etched plaque. My partner and I were even asked to interview for the International Law Moot Court team. I declined, because I didn't like the time commitment and, well, because I am a slacker.

Remember though, in between the Jessup brief deadline and the Jessup oral argument was the 2006 Fall Association of Trial Lawyers of America (ATLA) Intramural Mock Trial tournament. Luckily, I had taken evidence over the summer, so I was able to take Lawyering Skills II, which in part provided me the requisite skills involved in competing in mock trial. I felt prepared. Once entered, my partner and I were told we were permanently representing the defense. This was unfamiliar to me because in Moot Court oral arguments, the competitors had to know and argue *both* sides. I was

Please see Confessions, continued page 9

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Poker, continued from page 1

Almost 150 competitors started play. However, by a quarter past midnight, the first minutes of St. Patrick's Day, the final two gamblers were playing heads-up poker. When the last card was turned, it was 2L Patrick Bennett who won the grand prize: a full Bar-Bri bar review course valued at \$3,150.

All proceeds from the night went toward the USD Loan Repayment Assistance Program. The program is designed to assist attorneys working in qualifying low-income, public interest jobs to pay off their student loans. Due to the heavy debt that most students face upon graduation, many do not consider jobs that are heavy in social value but lacking in the form of a paycheck. That is where LRAP comes in to help.

However, in order to provide aid, LRAP must raise funds. A bulk of the fundraising is done during the annual LRAP week where, among other things, PILF members scramble around in a scavenger hunt of sorts, meeting with professors and following the instructions of anonymous donors who look to lend a big hand to those already lending theirs.

For the last two years, the Texas Hold 'Em tournament has been the culmination of LRAP week. This year, LRAP raised the most money it has in the history of the program. To add to that success, Dean Cole promised

to match the amount raised with funds from his discretionary school account. Early estimates were that LRAP week raised \$21,000.

As charitable as the cause was, most students were drawn to donate not out of altruism, but to have a seat in the poker tournament.

The tables featured up to nine players, each dealt two cards for his/her own individual use to be combined with up to five community cards dealt as betting progressed.

The first prize for a student or student-guest was the bar review course. The question did present itself: if you can be the best poker player in a room full of lawyers, why not skip the Bar and head straight for Vegas? For alums, the top prize was a flat screen television.

However, the top student and alum winners were not the only ones to walk away with prizes. This year's tournament featured far more prizes than last year. The top 18 players all left with something. One notable prize was a free body piercing, which reminds you that you are not really holding a royal flush until you are holding it with a Prince Albert.

Through the first hour, players who had already gone "all in" to find the cards were not on their side were allowed a one-time re-buy of \$10 to continue playing.

By the end of the first hour, all competitors were able to purchase \$1,000 more chips for the same \$10 fee. While \$1,000 seemed like a treasure trove through the first 60 minutes, that paltry sum would not even be enough to tip the dealers at the last tables. The blinds, which are the rotating bets two designated players must place before any card is dealt, were in the tens of thousands at the final table.

When the final round began, it seemed 1L Dan Martinez was a lock



Onlookers gather as chips are consolidated. Photo by Tiffany Keith

to win. Having so many chips that he actually required a tray to store them all, the Section A student continued to play smart and was single-handedly responsible for taking out the two remaining alumni players in one dynamic hand.

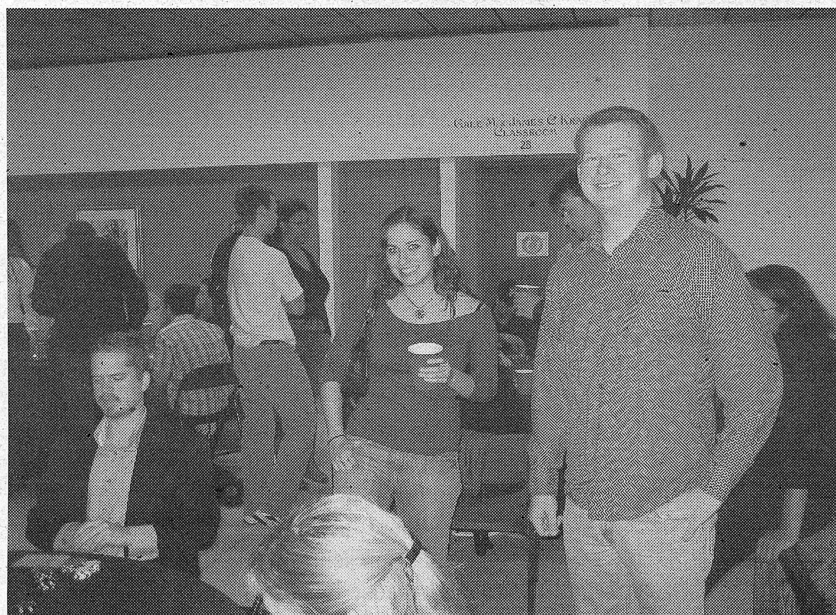
Maybe the old blood at the table was Martinez's good luck charm, because soon after the two alums left, so too did his chip lead.

Barrett, who had been considerably short-stacked for much of his time at the championship table, found himself making a comeback. And fittingly, after the clock struck 12, Barrett pulled off enough miracles to himself be called St. Patrick.

The last hands of the tournament were exciting enough to entertain more than a dozen spectators, some who had been eliminated for hours.

Second place finisher Martinez won a stellar consolation prize- four prime seats at a Padres game of his choosing. But Barrett was the big man of the tournament and as he was declared the victor, he displayed the smile of a champion, a smile so many had wished they could have flashed that night.

In the end, thanks to the charitable work of PILF, Barrett was just one of many who came out of this tournament a winner.



Tom Horton, 3L (L) checks his cards as Theresa Johnson, 3L and Jerry Pfohl, 3L look on. All participated in the Poker Tournament. Photo by Tiffany Keith

Mentoring, continued from page 2

Obtain outlines for your mentee. If you have not had your mentee's professors, ask your friends if they have had those professors and if they are willing to share their outlines. You can also point mentees to student organizations, such as the Women's Law Caucus, that maintain online outline banks.

Talk about summer internship or study abroad opportunities. What did you do over the summer? What are the advantages and disadvantages of working or going to summer school after the first year? Remind your mentee to go to the Career Services Office and its events. Encourage your mentee to network through Alumni, student clubs and San Diego County Bar Association events.

Share your stress-management strategies. Do you workout regularly? Do you play intramural sports to let off steam? Do you get to the library at 7 a.m. to avoid procrastinating in the morning?

Mentoring is not too difficult or burdensome. Yet, the benefits can be substantial. At the very least, mentoring involves sharing your own experience and discussing things that you have probably already considered in mapping out your own legal career. It is an opportunity to help someone else, as well as yourself because, by taking part in another person's professional growth, you will be helping that person catapult into a position to help you later. You do not need to have all the answers.

Confessions, continued from page 7

shocked. Less work! Familiarity! Mock Trial was, in fact, my salvation.

Late Thursday night, before the beginning of the tournament on Friday, I wrote up my questions for direct and cross-examination, and my opening statement. We prepared our witnesses about an hour before the tournament. Too bad we didn't have one of the witnesses committed for the entire tournament. Although one stayed with us throughout and did a superb job, we had to pluck some of our fellow competitors to fill the other witness role as we shockingly continued to move on throughout the tournament. In any case, our witnesses were great and, I must say, we were pretty good as well. The end result you may ask? We received first place for the defense.

Back to the present: here I am, 3:00 a.m., with chronic feelings of déjà vu, and trying to wrap my head around how the words "procedural safeguards" and "First Amendment freedom of expression" have anything to do with each other. I thought procedure was all Fifth Amendment junk, right? By about 9:00 a.m., three hours before the deadline, I had figured it out enough to put around twenty or so pages of dribble together. Thankfully, I had another two weeks until the oral arguments. This time I waited only two hours -- not my traditional three-- to write up my outline before the oral rounds. The extra hour

must have been worth something. I lost in the first round. Slacking must have caught up with me. At least I got a unit of credit out of it.

In April I plan on competing in the spring mock trial tournament, now conducted by AAJ, with my partner from the past competition. Maybe I can reclaim my slacking glory. In any case, if you have insomnia around 3:00 a.m. on April 14, 2007, give me a call because you know where I will be.

Moot Court, continued from page 7

Diamond were undefeated and ranked 5th out of 36 teams going into the fourth round, but lost in the semi-finals.

Lastly, 3L's Mark Rackers and Laura Beatty will compete in the Brooklyn Law School's Jerome Prince Memorial Evidence Competition during the weekend of March 29-31. Coached by 3L Marvin Roeder, the team will argue complex evidence issues involving the admission of expert testimony, the provision of jury instructions regarding false confessions, and the constitutionality of admitting statements of third parties relied upon by government expert witnesses.

Coverage of the Darfur Conflict

Plague, continued from page 1

and Tokyo War Tribunals, Special Court for Sierra Leone, International Criminal Tribunal for Rwanda (ICTR), and International Criminal Tribunal for the Former Yugoslavia (ICTY) was a product of victors. For example, the Nuremberg and Tokyo Tribunals set up at the end of World War II were the products of the Allied Powers, while the remaining tribunals were set up, for the most part, by the UN Security Council, again the Allied Powers of World War II. The phrase that best captures this historical trend, in my opinion, is "selective justice." I think former Secretary of Defense Robert McNamara said it best in the documentary film "The Fog of War," when he said, "What makes it immoral if you lose and moral if you win?"

These selective international prosecutions also share the historic bed with a numbing account of human loss and horrific, state-sponsored violence. Now, in the 21st century, with the onslaught of violence in northern Uganda, the Democratic Republic of the Congo, and most infamously Darfur, there is an immediate need for this trend of human indifference to change, and for a new method of international criminal prosecution to emerge.

Next week, I will be traveling to Hattiesburg, Mississippi to present my views on this new trend in international law at the 2nd annual University of Southern Mississippi conference on human rights titled "Genocide in the 20th and 21st Centuries: Causes, Cases and Cures." In particular, I will be discussing how the International Criminal Court, taking Africa as an example, is heading the powerful movement in the international community to finally hold state officials accountable for the trauma, and generational violence they have caused.

In 1998, nearly every nation in the world came together in Rome to discuss the creation of the International Criminal Court (ICC). A treaty was signed that day by nearly all the participants, including the United States. Four years later, in 2002, after the 60th instrument of ratification was noted, the ICC came into force. Unfortunately, just before this happened, President Bush sent an official letter indicating that the United States will not be a party to the Court, and will not recognize its jurisdiction. While many scholars believe this is a crippling factor keeping the ICC from reaching its full potential, my view is more optimistic.

A few weeks ago the ICC's chief-prosecutor submitted evidence regarding the future prosecution of two officials in Sudan. The evidence submitted on the crimes allegedly committed by the former Minister of State of the Interior for the government of Sudan and the leader of the Janjaweed is substantial. Documentation of horrific accounts of rape, mutilation, and the government-directed slaughter of thousands of innocent men, women and children in Western Darfur is enough to send chills down the most hardened spine. The sole challenge now, as the ICC has discovered through their prosecution efforts in northern Uganda, is figuring out an efficient way to get these men to The Hague for prosecution. Unfortunately, the treaty of the ICC only provides that the submission of individuals to the ICC is in the hands of the officials' home state. Thus, it will be up to Sudan to conform to

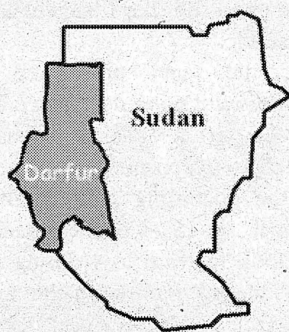


Picture of IDP camp in Sudan resulting from the Darfur conflict. Original captions states: "Internally Displaced Persons (IDPs) use sticks and scraps of plastic to construct makeshift shelters at Intifada transit camp near Nyala in South Darfur. These shelters are characteristic of many IDP settlements in Darfur." From: http://www.usaid.gov/locations/sub-saharan_africa/sudan/images/displaced_persons/photo01_highres.html

these orders.

This break in international customary law is revolutionary. Never before has there been a permanent international criminal court. Never before has such an international organization dedicated to ending official impunity had such enormous international support. It is a shame that the United States is not party to this Court. For that matter, it's disappointing that the US is in such non-signing company as Israel, India, and several other known human rights violators.

Ultimately, I believe that peace in Sudan is only achievable through justice. Despots and cowards will only end their tribal violence, and government-sponsored killings justified on claims of terrorism, when they realize their cushioned future-exile in some Middle Eastern country will possibly be threatened by the strong arm of international justice. This is a hybrid point of view. On the one hand, it plays to the realist theory that everyone acts in their own interests. On the other hand, there is an overarching theme of liberalism in supporting international human rights. These aren't my original thoughts. They have been the thoughts of an impassioned movement since the end of the 19th century. Ending physical violence in Africa is only the beginning. As Martin Luther King, Jr. put it, "True peace is not merely the absence of tension; it is the presence of justice."



International Law Society, Adam Sterling, and Darfur

by Lindsey Stevens, staff writer

A spark

A few short years ago Adam Sterling was an average undergraduate UCLA student trained to avoid the endless flyers thrust toward him on Bruin Walk. Influenced by an African Studies class and motivated by course reading, Sterling found himself intrigued by the series of killings in Sudan, and dumbfounded by the conflict between current events and post-holocaust lessons of "never again". Responding to his conscience, Sterling frequented the library for every publication on the topic of genocide and began a dialogue with other students. Was the major lesson in from the 20th century reduced to mere rhetoric?

Colin Powell, in 2003, first recognized that the native population of Western Darfur had become the subject of genocide. Though the conflict is difficult to categorize along purely racial or cultural lines, this tragedy marks the first time in modern history that mass murder has been declared a genocide while the killing is still occurring.

A Call to Action

Perplexed by the current events and a refusal to accept that history is doomed to repeat itself, Sterling delved deeper into understanding and addressing the issue in Darfur. He consulted with students and involved a UCLA faculty member who played a role in forming policy regarding the South African apartheid. Through the course of his research, Sterling realized that while there were no American companies in Sudan, there were billions of American dollars invested in the oil-wealthy country.

Divestment

The Sudanese government does not seem to be concerned much with "mere international opinion." Observing that economic pressure is far more compelling, Sterling used an idea he calls pure engagement. Pure engagement is a strategy that encourages companies to alter and decrease their involvement in Darfur in order to put economic pressure on the government. If the government fears that ultimately they will have no more investors while sustaining the genocide, they will be forced to act. The ultimate goal is to put sufficient pressure on the government so that they act to stop the genocide.

Sterling likens pure engagement to a boss counseling an employee about a behavior change before firing the employee. If the disfavored behavior changes, the employee keeps her job. Similarly, pure engagement works through a chain of interaction. It begins with company investors writing to the board of directors. Investors threaten to withdraw their investments if the company does not change its relations within Darfur.

Determining which companies to "engage" is often a difficult task. Sterling and his associates carefully evaluate companies based on criteria such as the work they perform in Sudan and their relationships with Please see Darfur, continued page 12

Election, continued from page 1

Complete Election Results

President
Cole Cannon
Day Vice President
John Lo
Evening VP
Ahnie Smith
Treasurer
Marissa Lyftogt
Secretary
Lois Seong
ABA Vice Chair
April Tatton
Evening Rep
Negeen Mirreghabie
2L Class Rep
Christine Diaz
Bridget Keto
Thomas Del Monte
3L Class Rep
Shannon Bauer
Kristy Gill
Nithin Metiu
Honor Court
Sam Goble
Nicole Kukas
Will Lewis
Cory Nikolaus
Sherlin Tung
Douglas Wacker

Mock Trial, continued from page 7

did not score well enough to be in the running for the final four spot.

The TYLA and AAJ teams were coached by Corky Wharton and Lisa Hillan who put in countless hours per week reviewing and commenting on student progress.

Stanford Invitational: Behind the scenes and before TYLA, AAJ or even the spring semester had started, an auxiliary team had prepared and competed in another tournament. Continuing with the trend started in the Fall semester, 2Ls were given an opportunity to hone their skills in smaller competitions as they aren't eligible to compete in national competitions until their 3L year.

Coached by San Diego Deputy District Attorney and USD Trial Team Alumnus Paul Reizen, the team consisted of 2Ls Hali Henderson, Greg Smith and Hasmik Badalian and 3L Kristie Nikoletich. Since the Stanford Invitational used AAJ's case file, students were able to use the tournament as an opportunity to try out some of their themes and arguments and see what worked and what flopped. The only catch was that the competition took place the last weekend of January, only 2 weeks after the spring semester began. This meant that practicing for the tournament started during Winter Break.

the race very close.
Before I go, I wanted to fill you all in on some interesting things going on in the law school. Please look for more articles and information to come.

Eliminating Tax I: The faculty and professors are seriously considering eliminating Tax I from the required list of classes. I know that somehow this rumor circulates every year, but this is not simply another cruel April Fools joke. It has been hotly debated at the past two faculty meetings and sent to committee for further review. The faculty only sends issues to committee if the idea is viable and taken seriously. In committee they exhaustively debate and research the issue, then come back to the rest of the faculty with an actual proposal. The faculty then votes. So, this may be something we see passed by the end of the year.

Shortening Civil Procedure from 6 to 4 Credits: This requirement is very strongly supported by the Civ Pro faculty. While every subject is important in law school, clearly those who teach a particular subject feel that their discipline is paramount and that any reduction in credit load (which translates to number of hours of classroom time) would sacrifice student learning. Professors who strongly support the movement are those that had their favorite 6 credit course de-unitized. They will most likely vote for fewer credits.

On-Line Course Enroll: The law school seems to always be slated to register online "next semester." Faculty and administration know that we are in the technological dark ages and don't find it any more acceptable than you nor I. However, because the law school falls under the University's technological infrastructure, we are at their mercy. As of right now, we have been promised that online registration will finally materialize in the Fall, but you will see those pretty multi-colored carbon copy registration forms in your mailbox before long because no one is holding their breath.

Ending the Semester Early: The faculty and administration are also actively pursuing moving the spring semester back one week. If the semester began and ended one week earlier, USD would be more in conformance with the schedules of the vast majority of other law schools around the country. This would help USD students who are studying abroad, those who need to attend employer training sessions, and also 3L's who are taking the bar exam in other states.

Lastly, I wanted to sincerely thank some outstanding people. First, I'd like to thank the wonderful administration, Dean Cole and Dean Wilson in particular for all of their guidance and help through this past year; Bill Anderson for always being so patient, flexible, and understanding with the students; all of the support staff, Kay, Karin, Leilani and all of those other women who are simply amazing. Thank you also to those phenomenal women in the Career Services Office who stayed optimistic despite some initial student hostility and resistance towards that area of the school in general. I would also like to thank the rest of the SBA for making some great firsts happen this year: The USD Alumni-Student Interactive Program, the Barrister's Ball, the largest and most successful Halloween Party, and much more.

In tribute to your new SBA President, I'll close this article with: You stay classy University of San Diego.

"The hardest part about the Stanford Invitational was the timing," said 2L, Greg Smith.

"Getting together a team and convincing each other that we really wanted to take time out of our break to prepare for this competition was our first hurdle. Once we were over that, we then only had 3 weeks to get a winning case together."

One team member, Kristie Nikoletich, was also part of the AAJ team that competed with the same case file two months after the Stanford Invitational. "Practicing with two different teams for two different tournaments was difficult at times, but one case file made it easy," said Kristie Nikoletich, 3L.

"The case definitely grew on me; at first glance, an accident between a truck driver and a car is not the most thrilling. However, the dynamics of working with diverse personalities and practicing with different themes and techniques made it interesting and I really enjoyed it. Also, by the time AAJ rolled around, I was confident in our presentation and felt like I had seen every possible version of the case file."

Overall, the team performed well at the invitational and narrowly missed 2nd place by 0.5 points.

At the conclusion of these tournaments, all the Trial Team has left to accomplish is to recruit new team members from the upcoming AAJ Spring Tournament taking place April 14-15. Coaches Richard Wharton and Lisa Hillan look forward to working with the talent on next year's team and continuing the successes of the program.

The Five Greatest Lawyers

by Michael Sienkiewicz, *staff writer*

1. Lionel Hutz

Hutz: Mrs Simpson, your sexual harassment case is just what I need to rebuild my shattered career! Care to join me in a belt of Scotch?
Marge: But it's 9:30 in the morning!
Hutz: Yeah but... I haven't slept in days.

This exchange speaks for itself. The late great Phil Hartman's second appearance on the list is a true triumph for the legal profession. Lionel Hutz, when he's not trying to score huge payouts on frivolous cases, has a side business in repairing shoes. For undisclosed reasons, he has taken on the aliases Miguel Sanchez and Dr. Nguyen Van Thoc. I can only dream of having this kind of legal career one day.

2. Johnnie Cochran

Johnnie Cochran might be the only legitimately great lawyer on this list. That does not mean that he is above mockery; so mock him I will. Cochran's command, "If the glove doesn't fit, you must acquit," might be the most widely-known legal argument in lay-America. In addition to representing O.J. Simpson, Cochran won a series of victories for the likes of Sean "P. Diddy" Combs, Michael Jackson, Tupac Shakur, and Snoop Dogg. However, Cochran has also scored victories for lower-profile clients. For instance, he represented Reginald Denny, the white trucker who was beaten by an angry mob in the aftermath of the Rodney King verdict. In his opinion, the happiest moment as a lawyer was when he secured the release of wrongly convicted Black Panther Elmer "Geronimo" Pratt. Cochran, despite his often-ridiculous mannerisms, was truly a champion for underdogs and those wronged by police.

3. Unfrozen Caveman Lawyer

"Ladies and gentlemen of the jury, I'm just a caveman. I fell on some ice and was later thawed by some of your scientists. Your world frightens and confuses me! When I see my image on the security camera at the country club, I wonder, are they stealing my soul? I get so upset, I hop out of my Range Rover, and run across the fairway to the clubhouse, where I get Carlos to make me one of those martinis he's so famous for to soothe my primitive caveman brain. But whatever world you're from, I do know one thing: in the 20 years from March 22, 1972, when he first ordered that extra nicotine be put into his product, until February 25, 1992, when he issued an interoffice memorandum stopping the addition of that nicotine, my client was legally insane."

Cirroc, the unfrozen caveman lawyer, is a satire of lawyers who play on their common-folk roots to play to the jury's sympathy. Cirroc also uses his shtick to hoodwink prostitutes and sire illegitimate children with his wife's sister. He gets a lot of mileage out of his unfortunate condition, but is undeniably a sophisticated advocate.

4. Judge Extreme Akim

Judge Akim Anastapolou of the reality TV series "Eye for an Eye" dispenses justice the way I'm sure our Founding Fathers envisioned it when they drafted the Constitution – with a Louisville Slugger. A prominent South Carolina plaintiff's attorney, Extreme Akim brings his own brand of no-holds-barred legal analysis to the UPN network five days a week. Akim is assisted by the show's host, Kato Kaelin. In a representative case, Judge Akim heard a case where a man's friend had wrecked his car and then refused to pay for the damages. His Honor ordered the only fitting legal remedy – that the man be allowed to take a baseball bat to his friends car. Truly hardcore.

5. Tucker Max

This Duke Law graduate had the opportunity and talent to be a great attorney. Fortunately for us, he chose instead to squander his talent and spend his years in an alcoholic stupor. As manager of his eponymous website, Max tells tales of his revelry and escapades to all who will double-click on his page. During his summer associate year, he managed to offend and anger everyone who crossed his path. His disgrace culminated in being fired from the firm over a near-affair with a married senior partner. While certainly amusing in a train-wreck kind of way, Max is best viewed as a cautionary tale.

PS. Lawyer joke:
Q: Did you hear about the jurisprudence fetishist?
A: Yeah, he gets off on technicality.

POINT/COUNTERPOINT:

TO SUE OR NOT TO SUE RESTAURANTS FOR CHILD OBESITY

POINT:

Suing Restaurants Is Ridiculous

by Hasmik Badalian, *associate editor*

In early March, CNN published an article about how Pizza Hut's Book It program is under attack by child-development experts.

For those not fortunate enough to experience it, Book It is an incentive program used in over 50,000 schools across the nation that rewards young students who read books with free pizzas. Participating teachers set a monthly reading goal for each student. Those who meet the goal get a certificate they can redeem for a free personal pan pizza at Pizza Hut.

Those campaigning against Pizza Hut have criticized the Book It program because they question the value of incentive programs, blame programs similar to Book It for childhood obesity, and scoff at corporate encroachment.

There are three very simple and logical responses to these asinine arguments.

First, kids need incentives to do things they don't like to do. Without incentives, kids wouldn't do anything besides what made them happy — namely, picking their nose, and watching television all day long. For some, reading books is not the default activity during down time and most kids would rather not read. But even for the most studious kid, reading to yourself quietly is much less entertaining than playing loud, violent video games or running around outside with your friends. For this very reason, incentives are necessary to encourage children to read more than they would choose to.

Plus, how do you think good parents rear well-behaved children? They give incentives and punish. It's the staple of child discipline or else we'd have children (and some do) who have a mind of their own and grow to be people no one wants to hang out with.

Second, what do you expect Pizza Hut to incentivize children with if not pizza? Carrots? Or milk? The reason Pizza Hut is able to offer any kind of reward to kids is because it offers them pizza, a reward that costs them next to nothing to give. Pizza Hut wouldn't be able to afford giving out a product or reward out of its realm of expertise and furthermore, how can we as a society expect it to?

This seems to be a classic case of looking a gift horse in the mouth. Instead of being thankful that there is a corporation out there who is willing to give out ANYTHING to kids for free (much less, sustenance!) in an attempt to promote literacy and good study

Please see Point, continued page 16

COUNTERPOINT:

Corporate Restaurants Perpetuate Obesity

by Gregory Smith, *staff writer*

The Pizza Hut reading program is yet another example of society sending the wrong message to children. Decades ago, children read because books were educational, books were interesting, or at the very least, children read because their parents told them to. Now, children will only read when multi-national corporations bribe them. It is yet another demonstration that the "what's in it for me-ism" of modern life has tricked all the way down and now infects children. The simple fact is children should not be rewarded for doing what is required of them.

Schools are rampant with programs that reward mediocrity and hold up average students as pinnacles of achievement. PE classes are eliminating games that show some students are more athletic than others. Grades are being eliminated and classes are being reformulated to boost self esteem and worth. The Pizza for Books program is exactly the same thing. It creates a race to the bottom and encourages students to read short and easy books to earn their prize. Instead of giving little Johnny a high-fat treat for getting through the latest Magic Treehouse book, Johnny should be told the truth...he reads 2 grade levels lower than he ought to and is 25 lbs overweight for his age!

Obesity is a large and growing problem in America (re-read the sentence if you didn't laugh the first time...get it, it is funny). The Pizza Hut program only perpetuates the problem. Given the widespread movement to improve the quality of food available at school, it is foolish to undermine these gains by allowing companies to give junk food to students for consumption after school.

If Pizza Hut really wanted to help improve schools and the education system in general, they would attack the problem head on. Instead of donating millions of dollars in free pizza, they could spend the exact same amount of money on textbooks, or computers, or teachers. Pizza Hut isn't actually trying to help; they are instead engaged in a grassroots guerrilla marketing campaign. Much as drug dealers give free hits to first timers in the hope of getting them hooked, Pizza Hut is giving children free pizza vouchers knowing Little Johnny will become a customer for life.

If parents want to reward children for reading that is one thing, but our school system and our society should not force the rewards upon them.



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Fair, continued from page 5

experience, "although we were there at the crack of dawn on a Saturday morning [a precious commodity in law school], it was a good feeling to volunteer our time and to know that our participation was vital for providing this opportunity to women across the county."

"The number of people willing to volunteer their time and expertise was incredible," echoed Alex Lowder, 1L. "It was interesting to see the variety of people committed to making the event a success -- particularly the attorneys and fellow law students who were willing to volunteer their precious time on a Saturday." Many other USD law students volunteered by playing with kids in the childcare center or talking to teens in the teen center. The daycare was organized according to age group, so volunteers who were comfortable handling infants had the opportunity to care for babies, and others had the opportunity to color and play board games with older children.

The Fair was co-sponsored and organized by the San

Diego County Bar Association, the San Diego Volunteer Lawyer Program and the Lawyers Club of San Diego. The event was a manifestation of the attention to detail and compassion that makes our local attorneys so successful in their professional lives. Jill Burkhardt, president of the SDCBA, attended the event, and Sam was impressed by her approachability.

"She was in a t-shirt and jeans -- no pretense -- just working hard and passing out gift bags like everyone else." This was Sam's second year volunteering at the Fair. Last year, as a student at UCSD, she babysat infants in the day care. This year, she assisted with the make-up application seminar, served lunch, distributed swag bags and



Women's Resource Fair

helped women and children board school buses for the trip home. She plans to volunteer again at next year's Fair.

"The women's resource fair provides a meaningful opportunity to connect with and support women and children in need. The fair not only helps



Women's Resource Fair

women and children, but helps to build families and the communities they live in. I can't think of a better way to spend a Saturday," said Rachel Lipsky, an associate at Coast Law Group.

Faculty Auction, continued from page 5

the piano and venue, Professor Semitsu can play music ranging from standards to 80's power ballads to TV theme songs to Broadway show tunes to hip hop love songs to church hymns to new age cover versions of Britney Spears classics. So long as you're not requesting Schubert concertos, he'll take your requests and make a set list catered to your heart's delight."

Throwing a twist on the prize, Semitsu also gave any bid over \$200 the option of having him dress up in a

pink tuxedo with pink ruffles. Any bid over \$500 included the option of having him dress up as a blond cheerleader. As the bidding heated up, Devitt threw in a twist of his own. He suggested the event be held at his house and he provide dinner and wine. In sum, fifteen lucky students will have the chance to hang out at Devitt's house, eating and drinking deliciousness, all while Semitsu, the blond cheerleader plays the piano. "Good food, good company, Semitsu dressed in drag...this is a dream come true,"

expressed Greg Smith, 2L, one of the 16 students who paid \$71 to attend the event. "I'm so excited, I can hardly contain myself!" shared John Lo, 2L.

"As if seeing Semitsu playing the piano dressed up like a blond cheerleader wouldn't already be the coolest thing ever, we also get to see inside Professor Devitt's house," said Hali Henderson, another student attending. "It's really too good to be true, which is why I'm bringing a camera. Wait, will Professor Devitt think it's weird if I just take random pictures of myself in different rooms of his house?"

Shih expressed her gratitude for Devitt's spur-of-the-moment generosity. "Thanks to Professor Devitt who offered the use of his house for Professor Semitsu's piano playing, this last item is what brought our total amount of money raised to over \$7,500."

WLC changed the format of the auction slightly this year by adding in a new component: a silent auction, allowing students to bid on items before the live event. "The idea of doing a silent auction was actually suggested by Professor Lobel--and I'm glad she suggested it," stated O'Hair. "Although I felt that the silent auction could have been more popular, and will be in the future, I was really happy we did it in terms of advertising the packages and creating a buzz about the auction. If used in future years, I think the silent auction will continue to help facilitate a faster-running auction and higher winning bids."

WLC member Brian Tomkiel was able to get kegs, typically a major expense, donated. With the donation of the kegs the event only cost around \$350, including the free beer, pizza and beads provided to those in attendance.

"WLC Faculty Auction could not happen without the generosity of our faculty, staff and students," said Shih. "Thank you to the students who so generously gave. WLC hopes you enjoy your bids but also that you enjoy your chance to spend time with our outstanding Faculty at USD Law."

"I couldn't have been happier with the auction," O'Hair said. "So many people helped out in setting up, working at the event, soliciting donations, and attending--all allowing the auction to run smoothly and allowing me to relax and enjoy myself!"

Upcoming Event: Mark your calendars for April 11, 2007, when WLC will host its 2nd Speed Networking event. If you have any questions, or know an attorney or judge who would like to participate, please email usdwlc@gmail.com

Darfur, continued from page 9

the Sudanese government. If the company seems to be funding or contributing to the Sudanese government's operations, they become a candidate for pure engagement. If the company does not respond to the pure engagement strategy within three months, divestment occurs, and American funds are withdrawn.

Success

Sterling, now age 24, has achieved relative success in not only attracting attention to the crisis in Darfur, but also in his pure engagement strategy. In 2005, Sterling organized a rally on the UCLA campus, involving students from all UC schools, in order to raise awareness about the UC funds invested in operations that ultimately

benefit a government condoning genocide. Since the rally, all UC funds have been withdrawn from Sudan.

Currently, legislation is pending in nineteen states that would require state pension funds to engage with their Sudanese investments and ultimately divest. Sterling recommends contacting California senators Boxer and Feinstein to express support for more divestment legislation.

For more information on this topic, please contact the University of San Diego School of Law International Law Society. Marshall Skaletsky is the new president and is looking for motivated individuals to serve on the executive board.

Point, continued from page 11

habits, by criticizing the program, society is

We're not talking about tobacco here, or alcohol. Pizza is not an addictive substance such that putting it out for free in the hands of children is morally reprehensible. We're talking about food that these kids' parents would otherwise buy for them anyways OR, food that they wouldn't otherwise be able to afford.

Third, blaming Book It for childhood obesity is so far reaching that it's laughable. If there's anyone to blame for childhood obesity is parents, primarily because kids can't choose what they put into their bodies without some approval from their parents.

People need to start taking responsibility for their own actions and stop blaming corporate America for their shortcomings. If you don't want your kid to be fat, don't feed it pizza. I'm pretty sure when your kid brings home that pizza certificate, there's no other way for them to redeem it without you driving them there.

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					8	3
			8	4	2	

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